



# Utah Open and Public Meetings Act

SITLA Board of Trustees Annual Training, 2018

# Is a “public body” involved?

OPMA applies only to public bodies

“Public body” defined as:

- ▶ Any administrative...[or] executive body of the State...
- ▶ Created by...statute...
- ▶ Which expends, disburses, or is supported in whole or in part by tax revenue.
- ▶ Vested with authority to make decisions regarding the public's business.
- ▶ (UCA 52-4-103)

# Is it a “meeting” as defined in OPMA?

If not, it need not be open

It is a “meeting” if:

- ▶ A quorum is present
  - ▶ Committee meetings example
- ▶ It has held “for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body...has jurisdiction or advisory power.”
  - ▶ Recent case regarding San Juan County Commission
- ▶ (UCA 52-4-103)

# A “meeting” does not mean:

- ▶ A chance or social gathering (UCA 52-4-103(6)(b), -208)
- ▶ A discussion of administrative or operational matters for which no formal action is required (UCA 52-4-103(6)(c))

# Open meeting requirements

- ▶ All meetings of public bodies are open unless appropriately closed (UCA 52-4-201).
  - ▶ Workshops and executive sessions are open.
  - ▶ Exemption for quasi-judicial deliberations in appeal matters (Common Cause of Utah, etc.)
- ▶ With respect to open meetings, the Board must:
  - ▶ Provide notice (UCA 52-4-202)
    - ▶ Minimum 24-hour notice of date, time, place, agenda
    - ▶ Posted at principal office or meeting place; posted on Public Notice Website, sent to newspaper of general circulation
  - ▶ Keep both written minutes and an audio recording (UCA 52-4-203)
    - ▶ If part of a site visit or field trip, and no vote taken, recording not required

# Closed meeting requirements

- ▶ Procedure for closing meetings (UCA 52-4-204)
  - ▶ 2/3 of a quorum of Board, in open session, must vote to close meeting
  - ▶ Reasons for closing of meeting must be given in open session
  - ▶ An audio recording of the closed meeting must be kept
  - ▶ No rule, contract, or appointment may be approved in closed meeting
- ▶ Reasons for closing meetings (UCA 52-4-205) (examples)
  - ▶ Strategy session re purchase, exchange, or lease of real property if public discussion would: disclose the estimated value of the property; or prevent completion of the transaction on the best possible terms.
    - ▶ Similar provision regarding sale of property.
  - ▶ Strategy session to discuss pending or reasonably imminent litigation.
  - ▶ Discussion of character, professional competence of individuals

# Additional provisions:

- ▶ Electronic meetings are permitted if provided for by rule (UCA 52-4-207). The Board of Trustees recently adopted such a rule.
- ▶ Actions taken in violation of OPMA are voidable by a reviewing court (UCA 52-4-302).
- ▶ Knowingly violating OPMA is a class B misdemeanor. (UCA 52-4-305)
- ▶ The presiding officer shall ensure the public body's members receive annual training regarding OPMA (UCA 52-4-104)